The Legislative Assembly of
British Columbia

SPECIAL COMMITTEE TO APPOINT A POLICE COMPLAINT COMMISSIONER

REPORT

2002

Special Committee to Appoint a Police Complaint Commissioner

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LEGISLATIVE ASSEMBLY
PROVINCE OF BRITISH COLUMBIA

November 21, 2002

To the Honourable
Legislative Assembly of
the Province of British Columbia

Honourable Members:

We have the honour to present the Report of the Special Committee to Appoint a Police Complaint Commissioner. This report covers the work of the all-party legislative committee for the Third Session of the Thirty-Seventh Parliament.

Respectfully submitted on behalf of the Committee.

Mr. John Nuraney, MLA
Chair

103-01392

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INTRODUCTION

Part 9 (Complaint Procedure) of the *Police Act* creates the Office of the Police Complaint Commissioner and establishes the procedure for resolving complaints against municipal police constables and departments in British Columbia.[1] Under the *Police Act*, the Commissioner is tasked with overseeing the complaint process, and ensuring that complaints are handled fairly, impartially and with respect for the public interest and the rights of all involved parties. The Commissioner's powers and duties under Part 9 of the *Police Act* include:

- receiving complaints;
- informing, assisting and advising complainants, respondents, discipline authorities and adjudicators with respect to the handling of complaints;
- overseeing complaint investigations;
- deciding when a public hearing into a complaint is necessary in the public interest;
- maintaining complaint records and publicly reporting on complaint outcomes;
- establishing procedures for informal resolution and mediation of complaints; and
- informing the public about the complaint process and the role of the Office of the Police Complaint Commissioner.

The Commissioner is a statutory officer of the Legislature, which means that the position is independent of the executive branch of government. The political independence of the Police Complaint Commissioner is guaranteed, in part, through those provisions of the *Police Act* that relate to the appointment of the Commissioner. Section 47 of the *Police Act* requires that an all-party special committee of the Legislative Assembly unanimously recommend the appointment of a person to be the Police Complaint Commissioner for the province. In order for the appointment to take effect, the Committee's recommendation must be accepted by a majority of Members of the Legislative Assembly.

This report constitutes a recommendation to the Legislative Assembly for the appointment of the second Police Complaint Commissioner for British Columbia.

[1] The Police Complaint Commissioner also oversees the complaint processes prescribed through *Police Act* regulations for designated law enforcement units and enforcement officers, the Stl'atl'imx Tribal Police Service and the Organized Crime Agency of British Columbia.

TERMS OF REFERENCE

On May 30, 2002, the Special Committee to Appoint a Police Complaint Commissioner was appointed to select and unanimously recommend to the Legislative Assembly the appointment of a Police Complaint Commissioner for the Province of British Columbia, pursuant to section 47 of the *Police Act*. The Committee's Terms of Reference specify that,

> *the Special Committee so appointed shall have the powers of a Select Standing Committee and is also empowered:*
>
> *(a) to appoint of their number, one or more subcommittees and to refer to such subcommittees any of the matters referred to the Committee;*
>
> *(b) to sit during a period in which the House is adjourned, during the recess after prorogation until the next following Session and during any sitting of the House;*
>
> *(c) to adjourn from place to place as may be convenient;*
>
> *(d) to retain such personnel as required to assist the Committee;*
>
> *and shall report to the House as soon as possible, or following any adjournment, or at the next following Session, as the case may be; to deposit the original of its reports with the Clerk of the Legislative Assembly during a period of adjournment and upon resumption of the sittings of the House, the Chair shall present all reports to the Legislative Assembly.*

COMPOSITION OF THE COMMITTEE

MEMBERS:

John Nuraney, MLA	Chair	Burnaby-Willingdon
Ken Johnston, MLA	Deputy Chair	Vancouver-Fraserview
Jenny Kwan, MLA		Vancouver-Mount Pleasant
Richard Lee, MLA		Burnaby North
Brenda Locke, MLA		Surrey-Green Timbers
Dennis MacKay, MLA		Bulkley Valley-Stikine
Patty Sahota, MLA		Burnaby-Edmonds
Patrick Wong, MLA		Vancouver-Kensington

CLERK TO THE COMMITTEE:

Craig James, Clerk Assistant and Clerk of Committees

COMMITTEE RESEARCHER:

Wynne MacAlpine, Committee Research Analyst

SELECTION PROCESS

The Committee conducted 13 meetings for the purposes described below:

Thursday, June 13, 2002	Organization and Planning
Wednesday, July 17, 2002	Application Screening
Wednesday, July 24, 2002	Application Screening
Wednesday, September 4, 2002	Planning and Shortlist Approval
Monday, September 16, 2002	Candidate Interviews
Wednesday, September 18, 2002	Candidate Interviews
Wednesday, October 2, 2002	Candidate Interviews
Wednesday, October 30, 2002	Deliberations
Thursday, October 31, 2002	Deliberations
Tuesday, November 5, 2002	Candidate Interviews
Wednesday, November 6, 2002	Deliberations
Monday, November 18, 2002	Deliberations
Wednesday, November 20, 2002	Deliberations

APPLICATIONS

From June 21 to June 26, 2002, advertisements were placed in all major daily newspapers in British Columbia and in one newspaper with national circulation. Prospective applicants were asked to reply by July 19, 2002. In response, the Committee received 126 applications for the position of Police Complaint Commissioner. Of the applications, 107 were received from British Columbia, 14 from other Canadian provinces and five from outside of Canada. All 126 applications were reviewed and assessed by each member of the Committee.

INTERVIEWS

Based on members' individual appraisals of the 126 applications, the Committee developed a shortlist of eight applicants. The full Committee interviewed all eight shortlisted candidates. Following deliberations on those interviews, the Committee selected two candidates to be interviewed a second time.

SELECTION CRITERIA

The Special Committee to Appoint a Police Complaint Commissioner comprised the same members as the Special Committee to Review the Police Complaint Process, which completed its mandate in August 2002. The Special Committee to Review the Police Complaint Process spent several months reviewing Part 9 of the *Police Act* and the work of the Police Complaint Commissioner. It issued two reports. In its *First Report*, the Committee identified several qualities necessary for a Police Complaint Commissioner. As described in the Committee's *First Report*, a Police Complaint Commissioner should demonstrate impartiality, maintain an unbiased perspective on policing and the community, engender the confidence of the police and the public, display sensitivity to social diversity, and establish an effective community presence.

The members of the Special Committee to Appoint a Police Complaint Commissioner developed those broad attributes into several specific measures for assessing applicants for the position of Police Complaint Commissioner. The Committee's assessment criteria included:

- strong understanding of and commitment to the values of civilian oversight of policing;
- integrity, objectivity, discretion and leadership;
- knowledge of policing in British Columbia and other jurisdictions;
- awareness of diverse communities, including marginalized groups;
- ability to interpret and apply legislation, regulations, policy and judicial and administrative decisions;
- capacity to oversee legal and alternative dispute resolution processes; and
- competence in senior-level administration and public relations.

The Committee's selection criteria formed the basis of a Position and Candidate Profile and a Screening Matrix, both of which were used to assess each application for the position and each interviewed candidate. To ensure consistency and fairness, each interviewed candidate was asked a standard set of 16 interview questions based on the Committee's selection criteria. The Committee's final deliberations were also guided by the principles outlined in the *First Report* of the Special Committee to Review the Police Complaint Process and the selection criteria derived from them.

RECOMMENDATION

Your committee unanimously recommends to the Legislative Assembly that Dirk Ryneveld, QC be appointed the Police Complaint Commissioner for the Province of British Columbia, pursuant to section 47 of the *Police Act*.

BIOGRAPHICAL NOTES

Dirk Ryneveld was born in Holland in 1946 and immigrated to British Columbia with his family at the age of six. He was raised and educated in Kimberley, attended Simon Fraser University in Burnaby, and obtained his law degree in 1971 at the University of Saskatchewan in Saskatoon. He articled and practised law in Cranbrook until his appointment as the first Deputy Regional Crown Counsel for the East Kootenays in April 1974.

In that capacity Mr. Ryneveld was responsible for setting up and administering the newly created Crown counsel office and overseeing prosecutions within the East Kootenays. He personally conducted numerous trials at all levels of court. He also interacted with nine detachments of the RCMP and the Nelson Police Department.

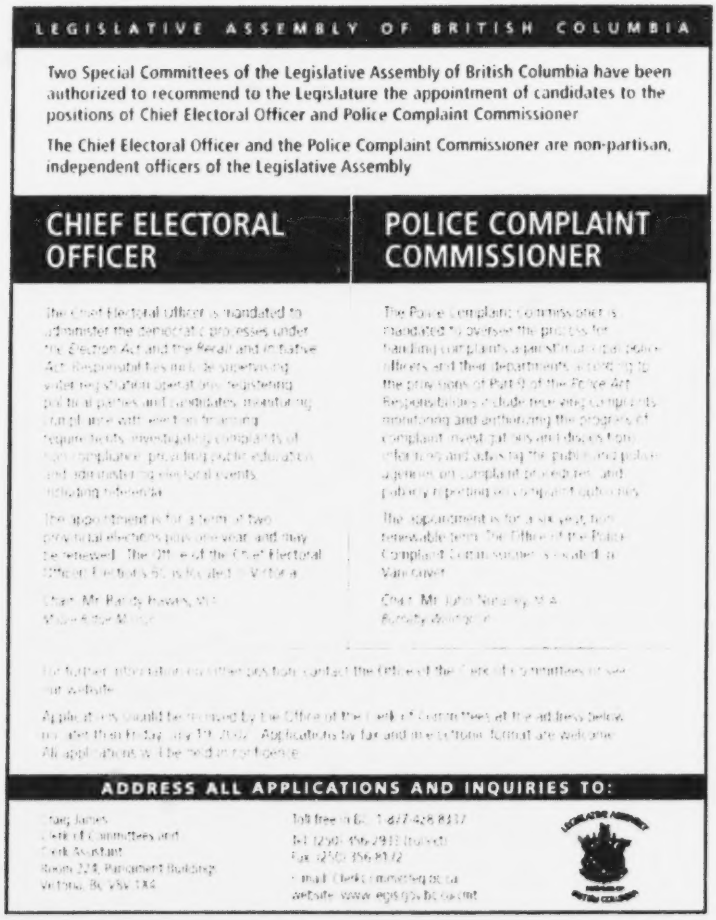
In July 1985 Mr. Ryneveld became the Deputy Regional Crown Counsel for Victoria, where he was responsible for both administering the office and handling a personal caseload of trials. During this period he became the Director of Major Crime Prosecutions for Vancouver Island. In that capacity he regularly interacted with all municipal police departments and several RCMP detachments on Vancouver Island. Dirk also conducted numerous high-profile cases, including murder, sexual assault, arson, and dangerous-offender proceedings. He acted as counsel on a regular basis at the BC Court of Appeal and occasionally at the Supreme Court of Canada. He was appointed as Queen's Counsel in 1990.

In March of 1999 Dirk took a leave of absence from Crown Counsel to become Senior Prosecuting Trial Attorney with the International Criminal Tribunal for the Former Yugoslavia. In that capacity Mr. Ryneveld has been the lead counsel in a number of significant cases. The first was a case in Bosnia that led to the precedent-setting declaration by the Court of the Tribunal that rape, sexual assault and sexual enslavement of women by soldiers are war crimes. That case was followed by the Keraterm detention camp case, in which the camp commander and shift leaders were convicted of persecution as a crime against humanity. Most recently, Mr. Ryneveld was the lead counsel in the Kosovo component of the ongoing Slobodan Milosevic trial, which has been described by the media as the most significant war crimes trial since the Nuremberg trials.

Mr. Ryneveld and his wife Fiona have two adult children.

ADVERTISEMENT

The Special Committee to Appoint a Police Complaint Commissioner and the Special Committee to Appoint a Chief Electoral Officer began their respective appointment processes on June 13, 2002. At a joint organization and planning meeting on that date, the committees agreed to place a single advertisement for the positions of Police Complaint Commissioner and Chief Electoral Officer. By publicizing both positions in a single ad, the committees saved substantially on advertising costs. The following advertisement was published in 15 of British Columbia's daily newspapers and one national newspaper between June 21 and June 26, 2002.[1]



LEGISLATIVE ASSEMBLY OF BRITISH COLUMBIA

Two Special Committees of the Legislative Assembly of British Columbia have been authorized to recommend to the Legislature the appointment of candidates to the positions of Chief Electoral Officer and Police Complaint Commissioner

The Chief Electoral Officer and the Police Complaint Commissioner are non-partisan, independent officers of the Legislative Assembly

CHIEF ELECTORAL OFFICER

POLICE COMPLAINT COMMISSIONER

ADDRESS ALL APPLICATIONS AND INQUIRIES TO:

[1] Cranbrook Daily Townsman; Peace River Block News; Alaska Highway News; Kamloops Daily News; Kelowna Daily Courier; Okanagan Saturday; Kimberley Daily Bulletin; Nanaimo Daily News; Nelson Daily News; Penticton Herald; Alberni Valley Times; Prince George Citizen; Prince Rupert Daily News; Trail Daily Times; Vancouver Province; Vancouver Sun; Victoria Times Colonist; National Post.

POLICE ACT, PART 9 [3]

Note: The sections of the Police Act *[RSBC 1996] CHAPTER 367 reproduced below are for informational purposes only. The full printed version of the Act remains the official version.*

DIVISION 2 — POLICE COMPLAINT COMMISSIONER

Police complaint commissioner

47 (1) On the recommendation of the Legislative Assembly, the Lieutenant Governor in Council must appoint as the police complaint commissioner a person, other than a member of the Legislative Assembly, who has been unanimously recommended for the appointment by a special committee of the Legislative Assembly.

(2) The police complaint commissioner is an officer of the Legislature.

(3) Subject to section 48, the police complaint commissioner holds office for a term of 6 years.

(4) A person who is appointed under this section is not eligible to be reappointed as police complaint commissioner.

Resignation, removal or suspension of police complaint commissioner

48 (1) The police complaint commissioner may resign at any time by notifying the Speaker of the Legislative Assembly or, if there is no Speaker or the Speaker is absent from British Columbia, by notifying the Clerk of the Legislative Assembly.

(2) The Lieutenant Governor in Council must remove the police complaint commissioner from office or suspend the police complaint commissioner for cause or incapacity on the recommendation of 2/3 of the members present in the Legislative Assembly.

(3) If the Legislative Assembly is not sitting, the Lieutenant Governor in Council may suspend the police complaint commissioner for cause or incapacity.

Acting police complaint commissioner

49 (1) The Lieutenant Governor in Council may appoint an acting police complaint commissioner if one of the following applies:

(a) the office of police complaint commissioner is or becomes vacant when the Legislative Assembly is not sitting;

(b) the police complaint commissioner is suspended when the Legislative Assembly is not sitting;

(c) the police complaint commissioner is removed or suspended or the office of the police complaint commissioner becomes vacant when the Legislative Assembly is sitting, but no recommendation is made by the Legislative Assembly under section 47 (1) before the end of the session;

(d) the police complaint commissioner will be temporarily absent for more than 30 days because of illness or any other reason.

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[3] Current to B.C. Regulations Bulletin September 16, 2002.

(2) An acting police complaint commissioner holds office until the first of the following occurs:

(a) a person is appointed under section 47 (1);

(b) the suspension of the police complaint commissioner ends:

(c) the Legislative Assembly has sat for 20 days after the date of the acting police complaint commissioner's appointment;

(d) the police complaint commissioner returns to office after a temporary absence.

Powers and duties of police complaint commissioner

50 (1) The police complaint commissioner is to oversee the handling of complaints.

(2) Without limiting subsection (1), the police complaint commissioner is to

(a) receive complaints from any source,

(b) establish and maintain a record of complaints, including the complaint dispositions relating to those complaints,

(c) compile statistical information respecting all complaints,

(d) regularly prepare reports of the complaint dispositions made or reached during the reporting period, and make those reports available to the public,

(e) inform the public of the complaint procedures provided by this Part and the functions and duties of the police complaint commissioner,

(f) accept and consider comments from any interested person respecting the administration of this Part,

(g) inform, advise and assist complainants, respondents, discipline authorities, boards and adjudicators respecting the complaint process and the handling of complaints,

(h) periodically conduct reviews of the complaint process and make any recommendations for improvement of that process in the annual report under section 51.1,

(i) establish procedures for mediation services to assist complainants and respondents in achieving informal resolution of complaints and provide those services to those parties,

(j) establish guidelines to be followed by municipal police departments for the purpose of informal resolution of public trust complaints under section 54.1, and

(k) perform any other duties imposed and exercise any other powers provided by this Act.

(3) Without limiting subsection (1), the police complaint commissioner may do any of the following:

(a) prepare and provide informational reports on any matter related to the role of the police complaint commissioner;

(b) engage in or commission research on any matter relating to the purposes of this Part;

(c) make recommendations to a board that it examine and reconsider any written policies or procedures that may have been a factor in an act or omission that gave rise to a complaint;

(d) prepare guidelines respecting the procedures to be followed by a person receiving a complaint;

(e) make recommendations to the director or the Attorney General that a review, study or audit be undertaken to assist police departments or forces, or any designated policing unit or designated law enforcement unit to which this Part is made applicable by regulation of the Lieutenant Governor in Council, in developing training or other programs designed to prevent recurrence of any problems revealed by the complaint process;

(f) make recommendations to the Attorney General for a public inquiry under the Inquiry Act if there are reasonable grounds to believe that

(i) the issues in respect of which the inquiry is recommended are so serious or so widespread that an inquiry is necessary in the public interest,

(ii) an investigation conducted under this Part, even if followed by a public hearing, would be too limited in scope, and

(iii) powers granted under the Inquiry Act are needed;

(g) refer to Crown counsel a complaint, or one or more of the allegations in a complaint, for possible criminal prosecution.

(4) In exercising the police complaint commissioner's powers and duties under this Part in relation to a public trust complaint, the police complaint commissioner may receive and obtain information respecting the complaint from the parties and the discipline authority in the manner the police complaint commissioner considers appropriate including, without limitation, interviewing and taking statements from the discipline authority, the person making the complaint and the respondent.

(5) A person having records relating to a complaint must provide, on request, the police complaint commissioner with access to those records.

Salary, expenses and benefits of police complaint commissioner

50.1(1) The police complaint commissioner is entitled

(a) to be paid, out of the consolidated revenue fund, compensation as may be fixed by the Lieutenant Governor in Council, and

(b) to be reimbursed for reasonable travelling and out of pocket expenses personally incurred in performing the duties of the office.

(2) [Repealed 1999-44-92.]

Staff of police complaint commissioner

51 (1) The police complaint commissioner may appoint, in accordance with the *Public Service Act*, employees necessary to enable the police complaint commissioner to perform the duties of the office.

(2) For the purpose of the application of the *Public Service Act* to subsection (1) of this section, the police complaint commissioner is deemed to be a deputy minister.

(3) The police complaint commissioner may appoint a deputy police complaint commissioner, who may carry out the functions of the police complaint commissioner while the police complaint commissioner is temporarily absent for a period of not more than 30 days because of illness or any other reason.

(4) The police complaint commissioner may incur reasonable office and other expenses as may be necessary to discharge functions under this Act.

(5) The police complaint commissioner may retain consultants, mediators or other persons as may be necessary to discharge functions under this Act, and may establish their remuneration and other terms and conditions of their retainers.

(6) The *Public Service Act* does not apply in respect of a person retained under subsection (5) of this section.

(7) The police complaint commissioner may make a special report to the Legislative Assembly if the police complaint commissioner considers that one or both of the following are inadequate for fulfilling the duties of the office:

(a) the amounts and establishment provided for the office of police complaint commissioner in the estimates;

(b) the services provided by the Public Service Employee Relations Commission.

Annual report

51.1(1) The police complaint commissioner must report annually to the Speaker of the Legislative Assembly on the work of the police complaint commissioner's office.

(2) The Speaker must promptly lay each annual report before the Legislative Assembly if it is in session and, if the Legislative Assembly is not in session when the report is submitted, within 15 days after the beginning of the next session.